

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

**STANDING ORDER FOR SETTLEMENT CONFERENCES**  
**MAGISTRATE JUDGE VIRGINIA K. DEMARCHI**  
*Effective July 6, 2021*

**1. Scheduling**

Unless a settlement conference has already been set by the Court, please contact Judge DeMarchi's courtroom deputy, Patricia Cromwell at (408) 535-5365 or [vkdcrd@cand.uscourts.gov](mailto:vkdcrd@cand.uscourts.gov) to schedule a conference. As a general matter, Judge DeMarchi prefers to conduct settlement conferences Wednesdays, Thursdays or Fridays during months when she does not have Criminal Duty.

Once set, a settlement conference may be continued only for a compelling reason. A party seeking to continue a settlement conference must first confer with all other parties to the conference regarding the continuance and then must file a request for continuance with Court promptly following the circumstances giving rise to the request. The request must demonstrate the compelling reasons for the continuance and state whether any other party objects to the continuance. Any objections to the continuance must be filed within two days of the filing date of the request for continuance.

Parties should expect to spend a full day at the settlement conference.

If a case settles before the settlement conference takes place, the parties must immediately notify Judge DeMarchi's courtroom deputy.

**2. Format**

The Court is willing to conduct settlement conferences in person at the courthouse in San Jose, or by Zoom. The parties shall confer and advise Judge DeMarchi's courtroom deputy, Patricia Cromwell, of their preference when scheduling the settlement conference.

**3. Required Attendees**

All parties and their counsel are required to attend the settlement conference in person. Absent exceptional circumstances and prior approval by the Court, attendance by telephone is not permitted. Corporations, government agencies and other non-natural persons must be represented at the conference by a person with unlimited authority to negotiate a settlement. An insured party must also attend the conference with a representative of the insurance carrier with full authority to negotiate up to the limits of coverage. A person who must call another person not present at the conference before agreeing to a settlement does not have unlimited authority.

#### 4. Settlement Conference Statement

No later than seven days prior to the settlement conference, each party participating in the conference must *lodge* a Settlement Conference Statement with Judge DeMarchi's chambers by emailing the statement in text-searchable .pdf format to [vkdcrd@cand.uscourts.gov](mailto:vkdcrd@cand.uscourts.gov) and delivering a hard copy to chambers. The statement should *not* be filed. Each party must serve a copy of its statement on all other parties participating in the conference.

The statement must include:

- a. the identity of the party(ies) or party representative(s) and attorney(s) who will attend the conference;
- b. a brief statement of the facts of the case;
- c. a brief statement of the claims and defenses raised, including statutory or other grounds upon which the claims and defenses are founded;
- d. the relief sought by the party;
- e. a summary of settlement discussions, mediations, or evaluations to date, if any;
- f. the party's present demand or offer of settlement (**if the party has not made a demand or offer, the party *must* make one in advance of the date the party's statement is due and include the demand or offer in the statement**);
- g. any other matter the party believes may materially impact settlement of the case;
- h. a summary of the proceedings to date, including the current case schedule; and
- i. a list of all pending motions.

The statement should conform to the formatting requirements of Civil L.R. 3-4 and should not exceed 10 pages of text. A party may include exhibits with its statement, but the exhibits should not exceed 20 total pages.

#### 5. Confidential Settlement Letter

No later than seven days prior to the settlement conference, each party participating in the conference must *lodge* a Confidential Settlement Letter with Judge DeMarchi's chambers by emailing the letter to [vkdcrd@cand.uscourts.gov](mailto:vkdcrd@cand.uscourts.gov) and delivering a hard copy to chambers. The letter should *not* be filed. The confidential letter should *not* be served on any other party.

The confidential letter must include:

- a. a candid evaluation of the party's likelihood of prevailing on the claims and defenses in the case;
- b. an estimate of the fees and costs incurred by the party to date, and the fees and costs expected to be incurred for further discovery, pretrial and trial proceedings;
- c. a realistic settlement amount and/or non-monetary terms that, given all the circumstances, the party submitting the letter would consider seriously; and
- d. any other matter the party wishes to bring to Judge DeMarchi's attention that might facilitate settlement of the case.

The confidential letter may be in traditional letter format addressed to the magistrate judge.

#### **6. Pre-Settlement Conference Call with the Magistrate Judge**

At the time of scheduling the settlement conference, the Court will set a date and time for a pre-settlement conference call with counsel at least 48 hours prior to the conference. Counsel should be prepared to discuss the matters in their respective statements and the logistics of the settlement conference.

IT IS SO ORDERED.

Dated: July 6, 2021

  
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VIRGINIA K. DEMARCHI  
United States Magistrate Judge